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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,780	04/12/2007	Meng Chow	P06,0203	5511
26574	7590	05/13/2010	EXAMINER	
SCHIFF HARDIN, LLP			YOUNKINS, KAREN L	
PATENT DEPARTMENT				
233 S. Wacker Drive-Suite 6600			ART UNIT	PAPER NUMBER
CHICAGO, IL 60606-6473			3751	
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			05/13/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,780	CHOW, MENG	
	Examiner	Art Unit	
	KAREN YOUNKINS	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 December 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 20-24 is/are allowed.
- 6) Claim(s) 1-3, 5, 7-9, 13-14, and 16 is/are rejected.
- 7) Claim(s) 4,6,10-12,15 and 19 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/7/2010, 4/9/2010</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

1. This action is responsive to the amendment dated 12/29/2009. Claims 1-24 are currently pending in the application.

Claim Objections

2. Claims 1 and 20 are objected to because of the following informalities: The language "a triggering mechanism operable to active a first supply of fluid" should be --a triggering mechanism operable to activate a first supply of fluid--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 7, 8-9, 13-14, and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,965,894 to Baus.

5. Regarding claims 1-2, 5, 7, 9, 13-14, and 16, Baus teaches a system comprising a dosing device operable to dispense a dosage of a substance capable of foaming a container 151 that is previously filled with a substance, an agitation mechanism 52, fluid supply means (137 and 72), and a triggering mechanism (manually activated via electronic control buttons 47 and 48 are provided on both the showerhead 52 and the housing 68, including a valve that mixes the substance with water upon depression of

the push buttons). The fluid supply means comprises a plurality of outlets, at the end of each hose 137 as well as at the end of 72. These outlets are 'first' and 'second' outlets to the extent claimed. The second outlet leaving 72 is directed at an inlet of the agitation mechanism 52.

Baus fails to explicitly show a receptacle in fluid communication with the dosing device and retaining a dispensed dosage of the substance capable of foaming. However, Baus teaches the device is for use in showers and baths.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the receptacle of a bathtub to use the system while bathing. The agitation mechanism, in its position on the wall, is positioned at an elevation to said receptacle.

The initial statement of intended use, claim 1 line 1, and all other functional implications related thereto have been fully considered but do not appear to impose any patentably distinguishing structure over that disclosed by Baus. It is noted that the triggering mechanism pulls water from two fluid supplies, both hot and cold pipes 4, 6.

6. Regarding Claim 3, as previously discussed in pp-5 above, further the area around 151 is a 'positioner' to the extent claimed. The container 151 is removable from, the housing in guides 152,153. This area defines an opening to receive the container, see figure 5.

7. Regarding claim 8, as previously discussed in pp-5 above, further Gaus teaches the agitation mechanism being a showerhead. Gaus teaches a showerhead per se, and does not disclose the particular design. It would have been obvious to have made the

showerhead 52 with a plurality of spray channels to enhance a user's shower experience.

8. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baus as applied to claim 1 above, and further in view of US Patent Application Publication No. 2003/0084505 to Conway et al. (Conway).

9. As previously discussed in pp-5 above, further Baus fails to show the triggering mechanism being triggered by a motion detector.

Conway teaches a passive motion detector 54 that detects the presence of a user for use in a shower system.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the triggering mechanism of Baus to include a motion detector to passively activate the device without work on the part of a user.

Allowable Subject Matter

10. Claims 20-24 are allowed.

11. Claims 4, 6, 10-12, 15, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 4 and 19, a piercing mechanism in combination with the other elements of the claims was not found. Regarding Claim 6, the first fluid outlet being directed at the opening in the positioner in combination with the other elements in the claim was not found. Regarding claims 10-12, a funneled container to direct foam in the

receptacle directly into the sanitary appliance in combination with the other elements of the claim was not found. Regarding Claim 15, a push valve being the triggering mechanism was not found in combination with the other elements of the claim. Further, it would not have been obvious to one having ordinary skill in the art to have incorporated a push valve into the electronic control system of Baus. Regarding Claim 20, a positioner comprising a substantially vertical pin in combination with the other claim limitations was not found.

Response to Arguments

13. Applicant's arguments filed 12/29/2009 have been fully considered but they are not persuasive.

14. On pages 8-10, the applicant has asserted that the amended language overcomes the previous rejection under 35 U.S.C. 102(b) as being anticipated by Bick. On pages 12-13 the applicant has asserted that the amended claim language overcomes the previous rejection under 35 U.S.C. 103(a) over Leonard in view of Scoggins. The examiner agrees the amended language has overcome these previous rejections.

15. On page 11 the applicant has asserted that Baus does not teach first and second water supplies as claimed. However, it is the position of the examiner that Baus teaches a first water supply 4 and second water supply 6 as discussed in the rejection above.

16. Regarding the rejection of claims 17 and 18, the applicant has asserted on page 12 similar arguments to those discussed in pp-15 above. The applicant has asserted

that the amended claims require the triggering mechanism to serve a dual function, one to dispense the substance capable of foaming and transport it and the other to agitate the dispensed substance. It is noted that the claim language requires the triggering mechanism being ‘operable’ to perform the functions. The system of Baus is operable to perform both of the claimed functions; as the mixing device may dispense a dosage of the soap or similar substance as well as operate as a spray head. A spray head is capable of being used to foam a dispensed soap substance when directed towards said substance.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN YOUNKINS whose telephone number is (571)270-7417. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. Y./
Examiner, Art Unit 3751

/Gregory L. Huson/
Supervisory Patent Examiner, Art Unit 3751